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UNITED STATES DISTRICT COURT
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                           SOUTHERN DISTRICT OF NEW YORK
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     M.D. STEVEN E. GREER,
 4
                                           : 15-CV-06119 (AJN)
                           Plaintiff, :
                                           : October 24, 2016
 5
                       v.
                                           : 500 Pearl Street
 6
     DENNIS MEHIEL, et al.,
                                           : New York, New York
 7
                           Defendants.
     ----X
 9
        TRANSCRIPT OF CIVIL CAUSE FOR HEARING ON DISCOVERY ISSUES
                     BEFORE THE HONORABLE JAMES L. COTT
10
                       UNITED STATES MAGISTRATE JUDGE
11
12
     APPEARANCES:
     For the Plaintiff: M.D. STEVEN E. GREER, Pro Se
13
                                 5206 Sabine Hall
14
                                 New Albany, Ohio 43054
15
     For the Defendants: STEVEN BARSHOV, ESQ.
Dennis Mehiel, Sive, Paget & Reisel, P.C.
Battery Park City, 460 Park Avenue
Robert Serpico New York, New York 10022
16
17
18
     For the Defendants: DEBORAH ELLEN RIEGEL, ESQ.
Mariners Cove, Rosenberg & Estis
Janet Martin, 733 3rd Avenue
Milford Management, New York, New York 10017
19
20
     Howard Milstein,
     Steven Rossi
21
22
     Court Transcriber: SHARI RIEMER, CET-805
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                                  Saratoga Springs, New York 12866
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     transcript produced by transcription service.
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              THE CLERK: In the matter of Greer v. Mehiel.
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 2
              Counsel, state your name for the record.
 3
    (No response.)
              THE COURT: Mr. Greer, do you want to state your
 4
   name for the record.
5
 6
              MR. GREER: Steven Greer.
 7
              THE COURT: And you're pro se; correct?
 8
              MR. GREER:
                          Correct.
              THE COURT: All right. Counsel.
 9
10
              MR. BARSHOV: Steven Barshov, Sive, Paget & Reisel
11
    for Battery Park City, Dennis Mehiel, and Mr. Serpico.
              THE COURT: All right.
12
13
              MS. RIEGEL: Deborah Riegel, Rosenberg & Estis, P.C.
    for the remaining defendants, Your Honor.
14
              THE COURT: All right. Counsel. So, I know you all
15
    have been litigating before Judge Nathan. I saw you all many
16
17
    months ago now. I gather as a result of the motion practice
18
    before her, there's a single First Amendment claim that's left
19
    in the case; is that correct?
20
              MR. GREER: Correct.
              THE COURT:
21
                         So, we need to set a discovery schedule.
22
              For that, I understand, Mr. Greer, you also have a
23
    motion to amend that's pending before Judge Nathan.
24
              I also have from the parties a proposed scheduling
25
    order in which there is a disagreement by 30 days over how
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3
    long discovery should last. Let's be practical here.
                                                           What is
1
 2
    discovery going to entail in this particular case?
              Mr. Greer, are you planning to take depositions in
 3
    this case?
 4
              MR. GREER: Yes, of real estate defendant employees,
 5
   many of whom have been fired; the same with The Battery Park
 6
 7
    City Authority who have been fired. And there's [sic] the
 8
   multiple --
              THE COURT: Well, how many people are you talking
 9
10
    about?
              MR. GREER: Well, I don't exactly know -- the first
11
   part will be under discovery to learn the list of names. But
12
13
    it could exceed five easily.
14
              THE COURT: Okay. But you think you can get all of
15
    that done by the end of February; that's your proposal?
                          I would prefer that; yes. I think they
16
              MR. GREER:
17
    live locally. I work fast. It would be -- just be a matter
18
    of the -- arranging for -- the right limited step would be the
19
    witnesses.
20
              THE COURT: Have you served document requests yet?
21
              MR. GREER:
                          We had done nothing; no.
22
              THE COURT:
                          Okay. My only concern is, it's now
23
    October 24th. If you served them today, they wouldn't be due
24
    until November 24th.
                          Then you're into December.
25
             MR. GREER: All right.
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4
              THE COURT: Then you're into the holidays.
1
 2
    you're talking about trying to get people who both sides
 3
   probably won't necessarily be able to control if they're under
    -- you know, so, it's going to be a little tricky to
 4
   necessarily make this happen quite as quickly as you want.
 5
              On the other hand, you know -- I mean, in a typical
 6
 7
    case, I sort of start from the default of 120 days. And then
 8
    the parties can tell me, well, it should be shorter for these
    reasons, or it should be longer for these reasons.
 9
10
              Obviously, if it's, you know, a complex antitrust
    case or something like that, it's going to be longer. If it's
11
    a single plaintiff employment discrimination case, in which
12
13
    there are only three people who are going to be deposed, maybe
    it should be shorter.
14
15
              MR. GREER: I said four months, and I'm not sure
16
    what they finally put on paper. So, four --
17
              THE COURT:
                          They said one more month. They say --
18
              MR. GREER:
                         Okay.
19
              THE COURT: -- you say February 28th. They say
20
    March 30th.
                 So, this --
21
              MR. GREER:
                          Well, I'm in agreement with your 120
22
    days, whatever date that is.
23
              THE COURT:
                          Okay. But realistically, that's
24
    November, December, January, and February. So, that's the end
25
    of February --
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5
              MR. GREER: Okay.
1
 2
              THE COURT: -- and so, let me ask defense counsel
 3
    why do we need an extra month?
              MR. BARSHOV: Your Honor, we --
 4
 5
              THE COURT: Less is more sometimes, counsel.
                                                             The
    longer you go on, the more disputes you'll have with
 6
 7
   Mr. Greer.
 8
              MR. BARSHOV: Your Honor, we're not talking about a
9
   protracted period of time here.
10
              THE COURT:
                         Well, what's the extra month for?
11
              MR. BARSHOV:
                            I --
12
              THE COURT: Other than deposing Mr. Greer, if you're
13
    going to do that, who else are you going to depose?
14
              MR. BARSHOV: Well, we don't know, Your Honor.
15
    Because most of the witnesses that are to be identified by
   Mr. Greer, as the ones that he claims are the -- for lack of a
16
    better word, whistle blowers. He has not named them.
17
18
    don't know how many there are. We don't know how difficult it
19
    will be to get them.
              So, it's a very much an open-ended question.
20
21
    believe it will be easier for us to identify the number of
22
                It's really, we are waiting on him and his Rule 26
    witnesses.
23
    disclosures to at least have an idea as to the number of
24
    witnesses that will be deposed.
25
              THE COURT: How come those disclosures haven't been
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6
   made yet? This case has been going on a long time.
1
 2
    wouldn't that have happened? Have you made yours?
              MR. BARSHOV: No, we have not, Your Honor --
 3
              THE COURT: Why hasn't anyone made them? I usually
 4
    say in my order -- I can't remember if in this case I did or
 5
    not -- that they were to have been made before the conference?
 6
 7
              MR. BARSHOV: Your Honor, I don't recall that.
 8
    We're prepared to make them within a week of today.
              THE COURT: Can you do the same?
 9
10
              MR. GREER:
                          Oh, sure; yes.
              THE COURT: All right. So, I hereby order you make
11
12
    your Rule 26 disclosures no later than October 31st. Okay.
13
    So, let me micro-manage your case a little bit. Let me give
14
    you a deadline by which document requests can be served.
15
              MS. RIEGEL: Judge, if I may --
16
              THE COURT: Yes, ma'am.
17
              MS. RIEGEL: I'm in a little bit of a peculiar
18
   position here. Because all of the causes of action against my
    clients were dismissed pursuant to Judge Nathan's order. The
19
    First Amendment claim was not asserted against the landlord
20
21
    defendants. Mr. Greer's motion to amend seeks to bring my
22
    clients into that claim. But at the moment, I don't have a
23
    horse in that race.
24
              THE COURT: Okay.
25
             MS. RIEGEL: So, I just want to make sure you're
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7
    aware of that.
1
 2
              THE COURT:
                          Okay.
              MS. RIEGEL: And that partly goes into the timing
 3
    issue.
 4
                          Okay. Well, if your clients are not in
 5
              THE COURT:
    the case now, but come back into the case, then you'll make
 6
 7
   your own Rule 26 disclosures within one week of that time;
 8
    okay? But if they're not in the case at the moment, then
 9
    there's nothing to disclose.
10
              Let's set a deadline by which you can make your
    document requests, so we put everything on track here. Can I
11
12
    propose that you do that by November 14th? Which means that
13
    your responses are going to be due by December 14th. And then
14
    you can talk about any issues that you may have with each
15
    other during December.
16
              And then once you sort those out, then you're going
17
    to have all of January and all of February to take
18
    depositions. And that seems to me, it should be adequate
    here. And if the landscape changes because the amended
19
    complaint has been granted and your clients are in, and all of
20
21
    a sudden there are more people, and you need more time than
22
    the end of February, you'll write me a letter.
23
              But let me tell you this, write me the letter by the
24
    beginning of February. Don't write three days before the
25
    deadline. Thirty days before the deadline, if you all think
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8 you need another month because the case has taken a slightly 1 2 different shape than it's in now, you can ask me for a discovery extension. You get one opportunity to do that. And 3 the only reason I'm letting you do that, because this is a 4 little bit of a moving target here, since we don't know if 5 Ms. Riegel's clients are going to be in or not. 6 7 And that obviously would change things a little bit. 8 So, I'm going to set the date, Mr. Greer, that you proposed, which is February 28th with leave to seek an extension, a 9 10 brief extension, and one extension. But to the extent anybody 11 wants to seek an extension, you have to seek it by February 1st. 12 MR. BARSHOV: Your Honor, one point to just have for 13 14 you in the back of your mind, Mr. Greer has indicated in an 15 email that he proposes to "delve into" -- these are his words: "the entire 30-year history of Robert Serpico, 16 and his thick human resources file filled with 17 18 sexual complaints to determine why those were covered up." 19 Which has nothing to do with this lawsuit. 20 21 THE COURT: I don't really know what that means. 22 But I will just tell, Mr. Greer, the following, 23 which is the Federal Rules of Civil Procedure were amended in 24 2015. You may or may not know this, to place a greater 25 emphasis on proportionality in discovery, which means that I

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9
   will look askance at anything that you are seeking that is
1
 2
    outside the four corners of what remains of your lawsuit.
   will not allow fishing expeditions in this case. We will not
 3
    allow the search for information that really has nothing
 4
   germane to what your claims are about.
 5
 6
              That sounds pretty far afield of what I
 7
    understand --
 8
              MR. GREER:
                         May --
 9
              THE COURT: -- your remaining claims to be, given
10
    Judge Nathan's decision. But I'm not going to opine on
11
    anything at this point, because I have nothing before me at
    this point.
12
13
              MR. BARSHOV: That's all right, Judge --
14
              MR. GREER: But may I explain --
15
              MR. BARSHOV: -- and I wasn't looking to ask you to
            I was really speaking to the question of timing and
16
    the idea that there may be motion practice involved with
17
18
    discovery for the reasons that I have indicated. So --
19
                          Okay. Well, let me be clear about that.
              THE COURT:
    There's to be no motion practice in discovery without a
20
21
    pre-motion conference.
22
              MR. BARSHOV: That's fine --
              THE COURT: And 95 out of 100 times, I will resolve
23
24
    whatever the dispute is without formal motion practice.
25
    Because we don't have time for formal motion practice.
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10
              MR. BARSHOV: Yeah.
1
 2
              THE COURT: Okay. If I had motion practice in every
 3
    case I supervised discovery in, I literally wouldn't sleep;
    okay? And 95 percent of the time, I can resolve it. So, if
 4
    it's we want to move to preclude or whatever, because
 5
   Mr. Greer is asking for information that goes outside the
 6
 7
   boundaries, write me a letter consistent with my rules.
 8
    Mr. Greer can respond. And we'll have --
 9
              I guess you're not living in New York anymore; is
10
    that correct?
11
              MR. GREER: Correct.
12
              THE COURT: So, we'll have a telephone conference,
13
    since you're living somewhere other than New York. And I hope
14
    I'll be able to resolve whatever those disputes may be in a
15
    telephone conference if they come up.
                            Thank you, Your Honor.
16
              MR. BARSHOV:
                         Yes, sir --
17
              THE COURT:
18
              MR. GREER: May I just -- it's not a fishing
19
    expedition whatsoever. My reporting on Mr. Serpico, who was
    covering up these sexual harass -- just recently, like two
20
21
    years ago -- is the reason they initiated the eviction and
22
    violated my -- it's extremely relevant to the case. And it's
23
    a simple file. They have a file sit -- I'm not going to be
24
    searching for 30 years of stuff -- it's sitting in a file
25
    right now, easily turned over.
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11
                         What is searching -- what is in a file?
              THE COURT:
1
 2
              MR. GREER: His human resource file with various
 3
    sexual harassment complaints by women in The Battery Park
    City --
 4
 5
              THE COURT: What does that have to do with your
    First Amendment claim?
 6
 7
              MR. GREER:
                          That is my reporting on Battery Park TV
 8
    among other stories that --
              THE COURT: Listen to my question.
 9
10
              MR. GREER:
                         Yeah.
11
              THE COURT: What does the information you're
    describing have to do with your First Amendment claim?
12
13
              MR. GREER: Because those people in that case --
14
              THE COURT:
                         What people, in what case?
15
              MR. GREER: Well, whoever we find out -- the women
    making those allegations will probably be very good witnesses
16
17
    that they were probably --
18
              THE COURT:
                          That doesn't pass the laugh test, with
    all due respect. I don't see how it has anything whatsoever
19
20
    to do with your First Amendment claim. You're not
21
    representing some women.
22
                          They were sitting there observing the
              MR. GREER:
23
    discussion of the conspiracy to evict me. It's a small office
24
    on the 24th --
25
              THE COURT: What does that have to do with whether
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12
    they made complaints or not? I don't understand.
1
 2
              MR. GREER: Oh, the people surrounding Robert
 3
    Serpico, who have an ax to grind with Robert Serpico, once I
    discover who they are, will be the best witnesses in the world
 4
    to say yes, they didn't like Steve Greer. And I was sitting
 5
   next to him at lunch one day -- or whatever their testimony
 6
 7
    may be -- and I witnessed Robert Serpico conspire with the
 8
    real estate people.
 9
              THE COURT: Okay --
10
              MR. GREER:
                         They're going to be the best --
                         Well, look, we're not going to resolve
11
              THE COURT:
    this now. I have no --
12
13
              MR. GREER: All right.
14
              THE COURT:
                         -- way of knowing out of context exactly
15
    how this all fits into the grand scheme of things. I just
    know from having read Judge Nathan's decision and what remains
16
17
    in this case is that you have to be very careful, Mr. Greer,
18
    that you don't run too far afield of what your case remains to
19
    be unless your amended complaint is granted and expands the
20
    scope of what your claims are.
21
              In which case, that may change what the proper scope
22
    of discovery is. But you have to really think about the use
23
    of discovery to be relevant to what your claims are in the
24
    lawsuit, not what somebody else might have or whatever; okay?
25
              MR. GREER:
                          Right. The way -- if this goes to a
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13
    jury trial, the bottom line is, I'll have to prove that Robert
1
 2
    Serpico and The Battery Park City Authority conspired with
    real estate people and said, we don't like this quy, let's
 3
   make an example of him. Let's get him out of town.
 4
   going to require witnesses on the stand. And the best
 5
    witnesses are the people who were complaining about Robert
 6
 7
    Serpico because they were working there. So, that's my --
 8
              THE COURT:
                          Okay. Well, I don't know how to answer
9
    that --
10
              MR. GREER:
                         All right.
              THE COURT: I think I've said what I needed to say.
11
    I think otherwise, this small protective -- the scheduling
12
13
    order that you submitted, seems fine. I'm going to go with
14
    the February 28th date. If there are going to be pre-trial
15
    motions -- why do you need 60 days after discovery, as opposed
    to 30?
16
17
    (No response.)
18
              THE COURT: I would say 30; okay? That's more
19
    typical. And I will change it to 30. And also, you'll file
    your pretrial order within 30 days after the close of
20
21
    discovery, or if a dispositive motion's been filed, within
22
    21 days of a decision on such motion. That's standard.
23
              MR. GREER: What was that, you changed from 60 to
24
    30, what?
25
              THE COURT: You'll see --
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14
              MR. GREER: Okay.
1
 2
              THE COURT: -- I'll issue an order, and you'll have
 3
        But what was submitted to me was that any pre-trial
   motions would be submitted 60 days after the completion of
 4
    discovery. And I'm saying that I'm changing that to 30 days.
 5
 6
    And same with the submission of the pre-trial order if there
 7
    aren't motions; okay? Anything else today?
 8
              MR. GREER: You had asked us to discuss settlement.
    And he asked me questions, but I -- it's up to --
9
10
              THE COURT: Well, are you interested in trying to
11
    settle this --
12
              MR. GREER: We discussed it. I gave him a number.
13
    The ball's in their court. I don't know --
              THE COURT: You've made a financial demand?
14
15
              MR. GREER: Yeah.
              THE COURT: Okay.
16
17
              And you've received it?
18
              MR. BARSHOV: Yes, Your Honor.
19
              THE COURT: And there's nothing, I assume, you think
    the Court can be helpful with in that regard?
20
21
              MR. BARSHOV: Not in this regard, Your Honor.
22
              THE COURT: Okay. So, if for some reason you think
23
    the Court could be helpful as far as settlement is concerned,
24
    obviously, you can write me and let me know that. I'd be
25
    happy to have a settlement conference if you ever thought that
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15
    was useful. But I obviously don't want to do it if it's
1
 2
    something where the parties are so far apart, and it's not
 3
    realistic use of our -- or a useful use of your time or mine,
    then we won't proceed with it.
 4
              MR. BARSHOV: I think that's a fair characterization
 5
    of the situation --
 6
 7
              THE COURT: No, I'm assuming Mr. Greer made a very
 8
   high demand, and you see the case as a nuisance-value case at
    most. And if it's that posture, then I don't want to
 9
10
   participate, because I don't have a magic wand. And I can't
11
    practice magic in here, or make people settle cases if they
    don't want to settle.
12
13
              MR. BARSHOV: You may not have magic in your tool
14
    chest, Your Honor, but clairvoyance is clearly part of what
15
    you're doing. You've got it exactly right.
              THE COURT: Well, I have clairvoyance. I also have
16
17
    what they call mediator intuition. So --
18
              MR. BARSHOV: That's for sure --
              THE COURT: All right. Everyone, have a good day.
19
20
              MS. RIEGEL: Thank you --
21
    (End of hearing.)
22
23
24
25
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I certify that the foregoing is a court transcript from an electronic sound recording of the proceedings in the above-entitled matter. Shari Riemer, CET-805 Dated: December 8, 2016